

CANA FOUNDATION, a non-profit corporation, LAURA LEIGH, individually, and WILD HORSE EDUCATION, a nonprofit corporation,

*Plaintiffs,*

v.

UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, and JON RABY, Nevada State Director of the Bureau of Land Management,

*Federal Defendants.*

## DECLARATION OF GARRETT W. SWISHER

1. Since 2014, I have served as the Bureau of Land Management (BLM)

2. I hold a Bachelor of Science in Rangeland Ecology and Management from Oregon State University. My curricula included numerous courses directly relevant to rangeland resources and interaction with grazing livestock, including horses and burros.

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1 treat horses. I have competed in 4-H, junior rodeo, and still compete in both rodeo and roping  
2 competitions. I am a current member of the American Quarter Horse Association.

3 4. I currently own 3 horses and, over the past 20 years, I have owned more than  
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5 15. My passion for horses and burros would not tolerate their inhumane treatment, personally  
6 or professionally, be they domestic or wild.

7 5. My desire to work around horses motivated me to accept a position as a BLM  
8 Wild Horse and Burro Specialist, in order to care for and ensure the well-being of wild horses  
9 and burros in northern Nevada.

10 6. As a BLM Wild Horse and Burro Specialist, I am responsible for the  
11 management of wild horses and burros within the Winnemucca District and I administer eight  
12 Herd Management Areas (HMAs). My duties include monitoring wild horse and burro  
13 conditions in the HMAs and evaluating and resolving escalating issues through use of  
14 appropriate measures. These measures can include, but are not limited to, water hauling and/or  
15 conducting an emergency gather. I also collect data to ascertain wild horse and burro impacts  
16 to rangeland resources and habitat components; this data is relevant to determining whether  
17 Appropriate Management Levels require modification to ensure a thriving natural ecological  
18 balance.  
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20 7. The Blue Wing Complex consists of approximately 2,283,300 total acres and  
21 encompasses five HMAs, four Herd Areas (HAs), and non-HMA areas where wild horses and  
22 burros migrate back and forth. HAs are not managed for wild horse and burro populations;  
23 however, animals that migrate from HMAs are occasionally removed from these areas. The  
24 HMAs consist of: Kamma Mountains, Seven Troughs Range, Lava Beds, Blue Wing  
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1 Mountains, and Shawave Mountains. The HAs within the Complex are Antelope Range,  
2 Selenite Range, Trinity Range, and Truckee Range.

3 8. The Appropriate Management Level (AML) for the Blue Wing Complex is 333-  
4 553 wild horses and 55-90 wild burros. AML is defined as the number of wild horses and  
5 burros that can be sustained within a designated HMA which achieves and maintains a  
6 “thriving natural ecological balance” in keeping with the multiple-use management concept for  
7 the area.  
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9 9. On January 4, 2022, BLM made a public announcement of its planned gathers  
10 for Fiscal Year 2022, including its plan to conduct a gather of 800 wild burros and 200 wild  
11 horses at the Blue Wing Complex, beginning on August 1, 2022. BLM conducted the gather  
12 from August 1 to August 12, 2022, and gathered 218 wild horses and 804 wild burros.  
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14 10. In general, the selection of trap sites utilizes the topography in areas with high  
15 probability and access to capture wild horses and burros. The traps are placed in areas where  
16 the contractor can hide their vehicles and equipment. Traps consist of a large catch pen with  
17 several connected holding corrals, jute-covered wings and a loading chute. The jute-covered  
18 wings are made of fibrous material, not wire, to avoid injury to the horses and/or burros. The  
19 wings form an alley way used to guide the wild horses and/or burros to the trap. Trap locations  
20 are changed frequently, sometimes as often as daily, during the gather to reduce the distance  
21 that the animals must travel. For some gathers, including the 2022 Blue Wing Complex gather,  
22 a helicopter is used to locate and herd animals to the trap location. The pilot uses a pressure  
23 and release system while guiding animals to the trap sites, allowing them to travel at their own  
24 pace. When wild horses approach the trap site, the contractor will release a domestic  
25 parada/guide horse that will guide the wild horses to the trap. For burros, cowboys on  
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1 horseback assist the helicopter with herding the burros into the trap. Once horses and/or burros  
2 are gathered, they are removed from the trap and transported to a temporary holding facility  
3 where they are sorted.

4           11. Generally, public viewing locations at trap sites must be a minimum of 1,000  
5 feet from an area that the helicopter may be herding horses or flying over to comply with FAA  
6 and contract requirements. We try to put the public in an area where they can see most if not all  
7 of the operation but far enough that when the helicopter or wranglers are working the animals  
8 they will not be disturbed by the public. Wild horses and/or burros that have not been trapped  
9 or around humans are very flighty and will react to many things around them. For the safety of  
10 the animals and wranglers, it is critical to minimize any unnecessary movements. Due to the  
11 nature of a trap needing a geographical feature such as a hill or a turn so the horses and burros  
12 can't see the trap before being herded into it, the public usually cannot be located in a spot to  
13 see the entire run. It is critical to conceal observers and vehicles to avoid scaring the animals,  
14 so the gather can be effective. Public observation locations are carefully selected to ensure the  
15 safety of animals and members of the public.

16           12. For the 2022 Blue Wing Complex gather, the trap site for August 1 through  
17 August 3, 2022, was selected due to the terrain to hide the trap (wings and panels), vehicles  
18 and equipment from view of the wild burros, and due to the close proximity to the animals'  
19 location within Granite Springs Valley near Porter Spring. The area was quite flat and open  
20 with limited geographical features to hide vehicles and members of the public, so the public  
21 viewing location was placed approximately 1.8 miles away from the trap location, at a spring  
22 source with tree cover and fencing to minimize the risk of injury to the animals and the  
23 observers. The tree cover was essential to conceal vehicles and members of the public and  
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1 ensure their safety during the gather operation. The BLM considered other locations that were  
2 closer to the trap site, but determined they were unsuitable due to how the burros would travel  
3 while being herded to the trap. Since the pilot utilizes pressure and release tactics to herd  
4 horses and/or burros, the helicopter needed the capability to be able to maneuver in order to  
5 herd the animals to the trap site. These alternative areas that were not selected were on the  
6 direct path of the burros that would be traveling down to the trap site. I have learned from past  
7 experience about selecting locations where members of the public can safely view the gather  
8 operations without being put in harm's way as the helicopter is herding animals to the trap. If  
9 members of the public were present at other locations nearer to the trap site, they would have  
10 been run over by the animals, and the helicopter would have had to avoid the area and would  
11 not have been able to make any correction to the burros traveling paths. Observers would have  
12 been surrounded by animals targeted for removal and these animals would have to travel in  
13 multiple directions in order to get down to the trap location.  
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16 13. The trap site was moved on August 4, 2022 to an area located on the east side of  
17 the Seven Troughs Mountain Range. The area was selected due to the terrain to hide the trap,  
18 vehicles and equipment from view of the wild burros, and due to the close proximity to the  
19 animals' location within Sage Valley near Vernon Well. The public observation site was also  
20 moved to remain within viewing distance of the trap site. The distance between the viewing  
21 location and the trap site was approximately 0.7 miles. The trap site remained in this location  
22 until August 7, 2022.  
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24 14. On August 9, 2022 the trap was moved to the Antelope Herd Area. The trap  
25 remained there until the morning of August 10, 2022, when it was moved back to the first trap  
26 site near Porter Spring in Granite Springs Valley. The public observation site was located  
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1 approximately 0.9 miles from the Antelope HA trap site. This trap site was selected due to the  
2 proximity to the wild horses in the area and the topography, which enabled the gather  
3 contractor to effectively hide the trap, equipment, and personnel associated with the trapping  
4 operations.

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6 15. On August 10, 2022, the trap was moved back to the first trap site in Granite  
7 Springs Valley. The same observation site that was used at this trap site previously  
8 (approximately 1.8 miles away from the trap location) was used again for the two days that  
9 capture operations were conducted for wild horses in this area (August 10 and August 11).

10 16. On August 12, 2022, the trap was moved again to an area within the Shawave  
11 Mountains HMA. The public observation site was approximately 1.02 miles from the trap site.  
12 These were the same trap and observation sites that were used during the 2020 Shawave  
13 Mountains HMA gather. The trap site was selected due to the proximity to the wild horses in  
14 the area and the topography, which enabled the gather contractor to effectively hide the trap,  
15 equipment, and personnel associated with the trapping operations. This trap site was used for  
16 one day, after which trapping operations were completed for the 2022 Blue Wing Complex  
17 wild horse and burro gather.  
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19 17. All traps used for the 2022 Blue Wing Complex gather were located on public  
20 lands and public observation was offered every day of the gather operations. Consistent with  
21 BLM policy, BLM provided public observation sites each day of the Blue Wing Complex  
22 gather in a safe area that allowed viewing of the operations while not jeopardizing the safety of  
23 the animals, staff, or disrupting gather operations. Additionally, BLM Winnemucca District  
24 staff escorted the public to the observation site each day of the gather.  
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1           18.     Once wild horses and burros are in the trap, the contractor moves them by  
2 truck/trailer to a temporary holding facility/corral, where they will be fed, watered, and sorted  
3 by sex and condition, and checked for injuries or chronic conditions. Gathered animals may  
4 stay at the temporary holding corrals for one or two days, then they will be hauled by semi-  
5 truck to either public or private off-range corrals, where they will continue to be cared for in  
6 anticipation of adoption, sale, or long-term care in Midwestern pastures.  
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8           19.     Temporary holding corral locations, depending on the gather operations, can be  
9 located on private or public lands depending on the location of animals within the gather area.  
10 The gather contractor is responsible for arranging the location of the temporary holding corral  
11 and tries to place it within appropriate driving distance from trap site location in order to be  
12 able to safely transport animals from the trap site to the temporary holding corral where  
13 animals are sorted. The location for temporary holding corrals is selected by the gather  
14 contractor based on several factors, including access to roads to allow for heavy equipment  
15 such as semi-trucks, trucks and trailers, and helicopters, as well as security, and access to  
16 water. If a temporary holding corral is located on private land, this is an agreement between the  
17 gather contractor and landowner. Some landowners may be comfortable with allowing public  
18 access, but others will not agree to public access.  
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20           20.     For the 2022 Blue Wing Complex gather, the gather contractor selected a  
21 location for temporary holding corrals due to its close proximity to access roads that were  
22 accessible to semi-trucks, water availability, and the ability to keep animals safe. This site was  
23 selected after looking at several other locations on public and private lands within the gather  
24 area because it was accessible by main county roads and the ability to access a well that  
25 produces approximately 1,000 gallons of water per minute to keep the dust to a minimum  
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1 within the corrals and keep the animals watered with no logistical challenges to haul the water.  
2 This site was also chosen due to its close proximity to areas where the wild horses and burros  
3 are frequently observed and where the trap sites were located during the gather. For the 2022  
4 Blue Wing Complex gather, the private landowner denied public access due to liability  
5 concerns.  
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7 21. The gathered wild horses removed from the Blue Wing Complex were shipped  
8 to the Palomino Valley Off-Range Wild Horse Off-Range Corrals (PVC), located in Reno, NV.  
9 PVC is a BLM-operated preparation and adoption facility that serves as a preparation center  
10 for wild horses and burros gathered from public lands in Nevada and other nearby states. PVC  
11 is open to the public Monday-Friday, from 8am-4pm. Adoptions are by appointment only.  
12 None of the gathered wild horses from the 2022 Blue Wing Complex gather are still at the  
13 facility.  
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15 22. The gathered wild burros removed from the Blue Wing Complex were shipped  
16 to the Axtell Off-Range Wild Horse and Burros Corrals, located in Axtell, UT. Axtell Off-  
17 Range facility is a contracted Off-Range Corral which is privately owned and not open to the  
18 public for viewing or observation. Currently, 356 wild burros from the 2022 Blue Wing  
19 Complex gather remain at the Axtell Off-Range facility. The other wild burros from the 2022  
20 Blue Wing Complex gather have been distributed to other facilities and adoption events, with a  
21 total of 319 wild burros adopted or sold into private care and placement.  
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23 23. The wild horses and burros were not shipped to the same holding facility due to  
24 available capacities of the respective Off-Range Corral facilities. BLM must ensure that it has  
25 sufficient space to adequately handle the national gather priorities for the entire Wild Horse  
26 and Burro Program. That means that BLM may need to send gathered animals to different  
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1 places, including BLM-operated and contracted facilities, depending on available space and  
2 geographic location.

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4 I declare under penalty of perjury that the foregoing is true and correct.  
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7 Executed 8<sup>th</sup> day of March 2024.

GARRETT  
SWISHER

Garrett Swisher

Digitally signed by GARRETT  
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